

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

RETAIL GROUND AND PARCEL SELECT GROUND  
SERVICE STANDARD CHANGES, 2022

Docket No. N2022-1

**INITIAL BRIEF OF THE UNITED STATES POSTAL SERVICE**

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### **ATTESTATION OF WORD COUNT**

The Postal Service attests that this brief contains 7,457 words, excluding the Cover, Table of Contents, and Table of Authorities.

## **I. STATEMENT OF THE CASE**

This proceeding is part of the evolution of the Postal Service's processing and transportation network envisioned by the *Delivering for America: Our Vision and Ten-Year Plan to Achieve Financial Sustainability and Service Excellence* strategic plan (Plan). The Plan sets forth a comprehensive and balanced set of initiatives to address the Postal Service's long-standing financial, service, and operational challenges. Ultimately, the Plan is designed to achieve two fundamental goals: service excellence, defined as meeting or exceeding 95 percent on time delivery across all product categories, and financial sustainability, by enabling the Postal Service to achieve break-even performance over the next ten years while making the necessary investments in people and infrastructure. By achieving these goals, the Plan will ensure that the American people receive prompt, reliable, and efficient universal postal services at least six, and sometimes seven days a week, through a postal system that is self-sustaining and capable of meeting their evolving needs.

On March 21, 2022, in accordance with section 3661 of title 39 of the United States Code, the Postal Service requested that the Postal Regulatory Commission (Commission) issue an advisory opinion with respect to planned service standard changes that further the Plan's twin goals of service excellence and financial sustainability. Specifically, the Postal Service proposes adjusting the service standards for its end-to-end Retail Ground (RG) and Parcel Select Ground (PSG) competitive products within the contiguous United States to align with the service standards for First-Class Package Service (FCPS) considered by the Commission in Docket No.

N2021-2, and implemented on May 1, 2022,<sup>1</sup> by upgrading the standards from the current 2- to 8-day standard to a 2- to 5-day standard.

## **II. STATEMENT OF POSITION**

In 2021, the Commission issued advisory opinions for changes to the service standards for First-Class Mail and Periodicals (FCM&P) (N2021-1) and for FCPS (N2021-2). Those changes enable the Postal Service to provide FCM&P and FCPS customers better service reliability while also improving overall cost and operational efficiencies by reducing the Postal Service's dependence on more expensive and less reliable air transportation in favor of less expensive and more reliable surface transportation. In turn, the shift from air to surface transportation affords improved flexibility to create a more efficient ground transportation and processing network and sets the framework for future operational benefits.

While the planned upgrades to the RG and PSG service standards build on the transportation and operational improvements made possible by the FCM&P and FCPS service standard changes, it is important to note that these upgrades constitute discrete innovations: whereas the FCM&P and FCPS changes aimed to enhance reliability by optimizing the use of the surface transportation and processing networks, the changes at issue here harness that optimization to *enhance* delivery speed. By consolidating RG and PSG volume with FCPS volume, the Postal Service can offer faster service for packages that exceed the weight and size limitations of FCPS. Upgraded RG and PSG service standards would, moreover, address the market need for a low-price, medium-

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<sup>1</sup> See, e.g., *U.S. Postal Service Implements New First-Class Package Service Standards and Updates Priority Mail Service Standards*, April 18, 2022 (<https://about.usps.com/newsroom/national-releases/2022/0418-usps-implements-new-first-class-package-service-standards.htm>).

speed, shipping service for packages in excess of one pound—a market that has seen significant recent growth and is expected to continue to grow as new shippers enter the market and Business-to-Consumer shipments continue to increase.

Shifting RG and PSG volume to align with FCPS volume would also enable the further optimization of the Postal Service's package processing and surface transportation networks. This added volume would help fill existing unused capacity, improving surface transportation utility and value. In addition, by eliminating the current interim processing stops, the Postal Service can reduce the overall processing burden while at the same time improving speed and reliability by reducing touch points. And, by combining multiple sorts, the change would improve volume and capacity in surface lanes.

With these adjustments, the Postal Service would continue to achieve the broader policies of title 39, effectively binding the nation together and providing prompt, reliable, and efficient services, as prescribed by section 101(a); providing effective and regular access within the scope of section 101(b); promoting prompt, economical, consistent, and reliable mail delivery in a manner that increases operational efficiency and reduces complexity in accordance with the requirements of section 101(f); and providing adequate and more efficient service consistent with sections 403(a) and 3661(a).

In addition, the planned changes would not impair compliance with the policies of section 3633 regarding the financial performance of competitive products. As competitive products, RG and PSG services would continue to cover their attributable costs, as required by section 3633(a)(2). Likewise, with respect to the other provisions



of section 3633, there is no increased risk of cross-subsidization of competitive products by market dominant products, nor any diminishment in the expected ability of competitive products collectively to cover an appropriate share of the Postal Service's institutional costs. Nor will these changes cause any undue or unreasonable discrimination against any users of the mail: the planned changes do not treat similarly situated users differently, but are time- and distance-based, and are not only faster, but also equitable.

### **III. DISCUSSION**

RG service is an economical ground shipping solution for retail customers for packages, thick envelopes, and tubes weighing 70 pounds or less and up to 130 inches in combined length and girth that are not required to be sent as First-Class Mail. RG service is available at Post Offices and other postal retail facilities. Pricing depends on package weight, size, and the distance to be shipped. (USPS-T-1 at 1-2.)

PSG is similar to RG but is targeted to commercial shippers.<sup>2</sup> Like RG, PSG is limited by weight and overall size and priced by weight, size, and the distance to be shipped. Unlike RG, PSG allows for initial entry of packages into the mail flow both at Post Offices and at originating downstream processing and distribution centers. (*Id.* at 2; USPS-T-3 at 3.)

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<sup>2</sup> As explained in USPS-T-2, at 9, within the Parcel Select product line, the planned changes would only apply to the "end-to-end," *i.e.*, full-network PSG product, and not to destination-entered Parcel Select destination pieces, which are subject to a 1- to 3-day service standard. Throughout this brief, "PSG" is therefore used as shorthand for "end-to-end, full-network PSG product."

## **A. Details of the Planned Service Standard Changes**

Service standards represent the time in which customers should expect mail or packages to be delivered. They consist of two components: (1) a delivery day range within which a given product is expected to be delivered; and (2) business rules that determine, within a product's applicable day range, the specific number of delivery days after acceptance of a mail piece by which a customer can expect that piece to be delivered, based on the 3-Digit ZIP Code prefixes associated with the piece's point of entry into the mail-stream and its delivery address.

Business rules are based on Critical Entry Times (CETs). The CET is the latest time on a particular day that a mail piece can be entered into the postal network and still have its service standard calculated based on that day (this day is termed "day-zero"). In other words, if a piece is entered before the CET, its service standard is calculated from the day of entry; if it is entered after the CET, its service standard is calculated from the following day. For example, if the applicable CET is 5:00 p.m., and a package is entered at 4:00 p.m. on a Tuesday, its service standard will be calculated from Tuesday, whereas if the package is entered at 6:00 p.m. on a Tuesday, its service standard will be calculated from Wednesday.

For end-to-end package service within the contiguous United States, both RG and PSG have a service standard ranging from 2- to 8-days. (See USPS-T-1 at 3.) The Postal Service plans to upgrade that service standard to correspond with the 2- to 5-day service standard for FCPS. (See *id.*) This change would be enabled by simplifying the operational scheme for processing and transporting RG and PSG package volume within the contiguous United States by combining it with FCPS volume.

(For a detailed explanation of the operational changes that will enable the planned service standards, please see USPS-T-2 at 2-10.) The table below compares the current to the new service standards:

Service Standard	Current Rules (Contiguous US)	Planned Rules (Contiguous US)
2-day	If Origin and Destination Processing and Distribution Center (PDC) are the same facility, then Service Standard is 2 days.	Intra-SCF and Origin to Destination pairs where total transit time is up to 8-hrs* (~372 miles) from Origin to Destination ADC to Destination SCF.
3-day	If Origin and Destination Processing and Distribution Center (PDC) are <b>not</b> the same facility, then the package is routed through a Network Distribution Center (NDC) and an Auxiliary Service Facility (ASF), if needed.  If Origin and Destination NDC are the same, and there is no ASF required, then Service Standard is 3 days.	Where the total transit time is greater than 8-hrs and up to 32-hrs* (~1,488 miles) from Origin PDC to Destination ADC to Destination SCF.
4-day	If Origin and Destination NDC are the same, and there is an ASF required, then Service Standard is 4 days.	Where the total transit time is greater than 32-hrs and up to 50-hrs* (~2,325 miles) from Origin PDC to Destination ADC to Destination SCF.
5-day	If Origin and Destination NDC are <b>not</b> the same, determine the travel days between NDC facilities.  If an ASF is not required, and the travel time between NDC facilities is 1 day or less, then the Service Standard is 5 days.	Where the total transit time is greater than 50-hrs from Origin PDC to Destination ADC to Destination SCF.
6-8 day	If Origin and Destination NDC are <b>not</b> the same, determine the travel days between NDC facilities within Service Standard Directory (SSD).	N/A

	<p>If ASF is not required, then the Service Standard equals the travel time of 2 or more + 4.</p> <p>If ASF is required, then the Service Standard equals the travel time of 2 or more + 5.</p>	
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(USPS-T-1 at 3-4; USPS-T-2 at 8-9)

The planned RG and PSG service standards are predicated on the change to the FCPS service standards and the concomitant improvement and optimization of the Postal Service's package processing and surface transportation network and depends on consolidation with FCPS domestic surface volumes. (See USPS-T-1 at 4; USP-T-3 at 6.) If the planned FCPS standards were applied to domestic RG and PSG packages originating and destinating outside the contiguous United States, that volume would have to be carried by air to meet the planned service standard, which cannot be done cost effectively. (See *id.*; USPS-T-2 at 15-16.) RG and PSG packages sent to or from domestic locations outside the contiguous United States will, therefore, continue at this time to be shipped and processed without change in accordance with the current service standards. (See USPS-T-1 at 4; USPS-T-2 at 16.) That said, the Postal Service is exploring whether this proposal might facilitate adjusting the service standards for any piece originating or destinating outside the contiguous United States that traverses the contiguous United States during some portion of the piece's journey, to potentially take advantage of the faster service to RG and PSG within the contiguous United States that would be provided based upon this proposal. (See USPS-T-1 at 4-5; USPS-T-2 at 16.)

Likewise, packages containing Hazardous Materials that are restricted from air transportation would not be included in the planned service standards because some

RG and PSG packages may be routed by air transport where it is more cost effective to do so, and certain hazmat or live animals may not be suitable for this mode of transport. (See USPS-T-1 at 5; USPS-T-2 at 13-14.) Hazardous Materials within the contiguous United States will, therefore, continue to be transported by ground in accordance with the current 2- to 8-day service standard. (See USPS-T-1-at 5; USPS-T-2 at 13-14.) Live animals shipped by RG would also be excepted from the new service standards. (See USPS-T-1 at 5; USPS-T-2 at 14-15.)

**B. The Planned Service Standard Changes Will Benefit Customers and the Postal Service by Providing a Faster, More Cost-Effective Shipping Product for Larger Packages.**

The enhanced 2- to 5-day service standards will benefit postal customers by providing faster service for larger package shipments and will better position the Postal Service to meet growing consumer and business needs for a medium-speed, low-price ground transportation solution for shipping larger packages within the contiguous United States. These improvements should translate into additional, contribution-positive volume, which, over time, should improve the ability to move more volume to ground transportation and help increase the sustainability of the Postal Service. Combining RG-PSG volume with FCPS volume will also improve efficiency in transportation and processing capacity utilization. By making the product more attractive to potential users, these changes will improve product revenue and service in furtherance of the Postal Service's financial sustainability and service excellence goals.

**1. The Planned Service Standard Changes Will Benefit Customers by Allowing Faster Service for Larger Package Shipments**

Research reveals that consumer and business demand for package ground shipping service is both large—nearly 18 billion packages were shipped by ground transportation in 2021—and growing—since 2017, the percent of overall package shipments transported by ground has increased from 72 to 76 percent. (See USPS-T-1 at 6.) Indeed, e-commerce experienced significant growth during the COVID-19 pandemic; continued consumer reliance on e-commerce is expected to sustain package shipping volumes into the foreseeable future. (*Id.* at 8.) In addition, retailers indicate a demand for increased shipping speed and, indeed, are expanding their Business-to-Consumer business models and moving inventories to smaller facilities closer to population centers to allow volumes to be moved by less expensive ground transportation while maintaining similar delivery times versus more expensive expedited long-haul shipments. (*Id.*) This in turn increases the need for the very sort of ground transportation that faster RG and PSG products would be well positioned to satisfy.

As noted in USPS-T-2, at 10-12, for both RG and PSG, the 3-digit OD Pairs in the contiguous United States subject to a service standard change would shift to align with those for FCPS in the contiguous United States.<sup>3</sup>

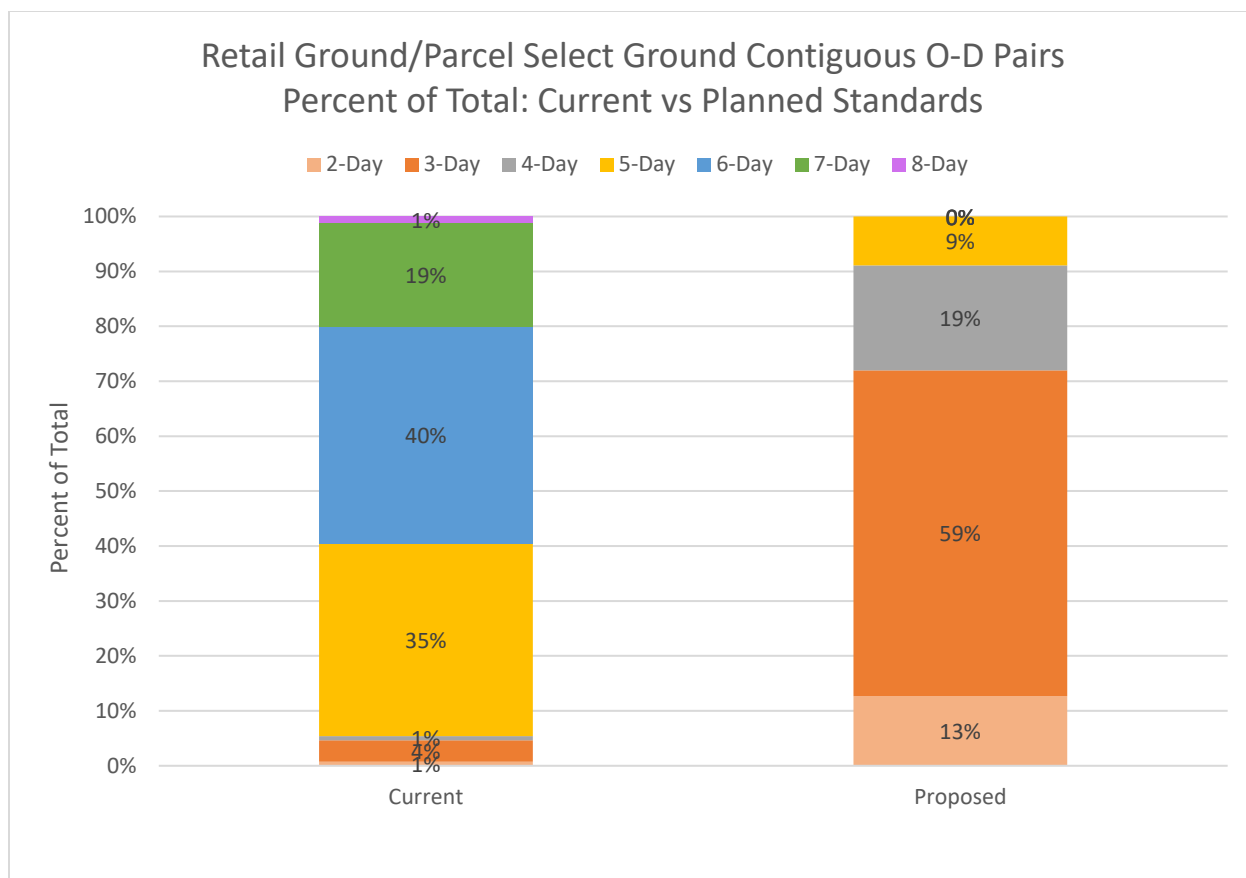
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<sup>3</sup> For information concerning volume impacts, see USPS-LR-N2022-1-NP4 (RG-PSG Service Standards Change to FCP - Contiguous Only.xlsx).

Retail Ground and Parcel Select Ground		
Number of 3-Digit OD Pairs in the Contiguous United States Subject to Service Standards		
	Current Service Standards	Planned Service Standards
2-Day	6,305	105,049
3-Day	31,973	491,638
4-Day	6,554	158,612
5-Day	290,402	73,655
6-Day	327,556	-
7-Day	155,939	-
8-Day	10,225	-
Total	828,954	828,954

(USPS-T-2 at 11.)

As the volume shift described above indicates, this reallocation of service standards to OD pairs would represent a significant improvement over the current state:



(USPS-T-2 at 12.)

In sum, by adjusting the processing and transportation of RG and PSG to accord with FCPS within the contiguous United States, the Postal Service can improve service standards for RG and PSG from the current 2- to 8-day standard to a 2- to 5-day standard. These enhanced standards will better align with growing consumer and business demand for a medium-speed, low-price ground transportation solution for shipping large packages.



## **2. The Planned Service Standard Changes Will Better Align the Postal Service's Product Portfolio with Market Demand**

The Postal Service's current package product portfolio is currently not well positioned to meet the large and growing demand for a low-priced, medium-speed shipping solution for large packages. (See USPS-T-1 at 5-6, 8-10.)

Historically, Priority Mail (PM) has been the Postal Service's only weight-rated product that comparably aligns in price/time-in-transit to competitor ground products. (See *id.* at 8.) And, while FCPS provides a medium-speed, low-price shipping option for lightweight (less than a pound) packages, the Postal Service has no similar product for larger packages that would be considered a medium-speed, low-price option. (*Id.*) Indeed, prior to January 2022, RG-PSG were priced similarly to PM, despite offering significantly slower time-in-transit. (*Id.*)

Recognizing the problematic pricing similarity of RG-PSG and PM, in January 2022, the Postal Service reduced prices for RG and PSG to improve the marketability of these products within the limited low-speed, low-priced market segment for larger packages. (See *id.* at 9.) But the Postal Service still has no product to fill the growing medium-speed, low-priced market for larger packages; and, at 2- to 8-days, the service standard for RG-PSG is considerably slower than comparable products of private-sector competitors and RG-PSG is therefore often not a viable alternative for other products in the medium-speed, low-priced market. (See *id.*) Then, in September 2021, the Commission reviewed the Postal Service's Request to change the service standard for FCPS. (*Id.*) In preparing to implement that change,<sup>4</sup> the Postal Service evaluated the

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<sup>4</sup> See note 1.

opportunity to create a medium-speed, low-priced ground transportation product for larger packages by aligning RG and PSG operations with FCPS. (*Id.*) Having a 2- to 5-day product for both light and heavier packages will better align the Postal Service's product portfolio with the package shipping market and enable the Postal Service to better compete with our private-sector competitors. (*Id.* at 10.)

As discussed above (*see supra* at 9), the Postal Service considered industry expert and customer/shipper interviews and market data on the existing share of comparable market segments and concluded that aligning RG-PSG with the FCPS standards will better position the Postal Service product portfolio to meet the growing consumer and business needs for a medium-speed, low-price ground transportation solution for shipping larger packages within the contiguous United States. (See USPS-T-1 at 7, 10.)

**3. The Slight Temporary Cost Increase from the Planned Service Standard Changes is Offset by the Broader Benefits of This Proposal.**

This section addresses the cost impact estimates relative to shifting some FCPS volume moved by commercial air in FY2021 to cargo air (*e.g.*, FedEx Day Turn) that will initially result from combining RG and PSG volumes with FCPS volumes under the planned RG and PSG service standard changes. Dynamic cost estimates resulting from the prospective increase in ground volume due to anticipated growth of the combined FCPS, RG and PSG volumes are addressed in Section III.B.4, below.

In his direct testimony (USPS-T-2), Witness Bray describes the current PSG and RG mail flows and changes to PSG and RG mail processing and transportation that will implement the planned service changes. These changes involve processing and

transporting PSG and RG with FCPS and have potential sources of cost efficiencies. With respect to processing, it is anticipated that moving PSG and RG pieces to the FCPS mail stream will reduce mail processing costs on net by reducing or eliminating “touches” of PSG and RG in the Network Distribution Center (NDC) network. (See USPS-T-3 at 1.) The relatively small addition of workload from PSG and RG volumes should have negligible effects on existing processing of FCPS and other parcel products in plants. (*Id.*) Overall, the Postal Service estimates a \$31.9 million reduction to RG and PSG mail processing cost based on FY2021 volumes. (See *id.* at 5.)

Transportation impacts result from mode shifts required to meet the planned service standards. In particular, some high-zone PSG and RG pieces currently transported by surface modes will require freight air transportation (*e.g.*, FedEx Day Turn) to meet the planned service standards, and some FCPS will shift from commercial flights to freight air transportation since mixed FCPS, PSG, and RG pieces will include parcels exceeding weight limits for commercial air transportation. (See *id.* at 1-2.) The Postal Service estimates that shifting RG and PSG volume to air transportation will reduce transportation costs for high-zone PSG and RG by \$4.7 million. (See *id.* at 6.) For FCPS, the Postal Service estimates a \$40.4 million increase resulting from the shift from commercial to freight air transportation. (See *id.* at 5-6.) Overall, the Postal Service therefore estimates a slight cost increase totaling \$3.8 million consequent to the combination of RG and PSG volume with FCPS, but this increase is expected to be temporary (as discussed below) and is worthwhile given the overall benefits of this proposed change. This slight cost increase also does not affect the ability of any of

these products, or competitive products generally, to achieve the Section 3633 policies. (See *infra* at 24-25.)

**4. The Planned Service Standard Changes Should Increase Overall RG and PSG Volume and Revenue While Reducing Costs Over Time.**

As noted above, market research has revealed significant unmet market demand for a medium-speed, low-cost ground transportation product for shipping packages. (*Supra* at 12-13). That need is not currently addressed by any existing Postal Service product, including PM. (See USPS-T-1 at 5-6, 8-10.) Trends of market growth in shipping, along with the potential for a low-price, medium-speed shipping solution to attract customers of various characteristics, together represent an opportunity to grow volume—one on which the planned changes aim to capitalize. (See USPS-T-1 at 5-10.) Based on the marketability of the enhanced RG-PSG products and customer demand for a faster, low-priced shipping alternative for large packages, the Postal Service anticipates significant volume growth and an overall revenue increase. (For details, please see Witness Jarboe's responses to POIR No. 1, Questions 6.c and 7.b in USPS-LR-N2022-1/NP6 and Witness Owens's response to POIR No. 4, Question 6a-b in USPS-LR-N2022-1/NP13.)

Increased volume in the ground transportation and processing network will allow the Postal Service to improve transportation and processing utilization, which, over time, will allow further optimization of the ground transportation and processing networks. (See USPS-T-2 at 5-10.) In addition, as RG-PSG volume increases, more FCPS volume currently transported by air can be efficiently shifted to surface transportation, thereby dynamically reducing overall cost and increasing efficiency over time. (See

Witness Bozzo's nonpublic response to POIR No. 5, Question 6.b in USPS-LR-N2022-1/NP14.)

Because RG and PSG are priced below PM, which presently serves the medium-speed, medium-price market segment, an enhanced RG-PSG product may result in some diversion of PM volumes. (USPS-T-1 at 11-12.) Because competitive package-delivery markets are dynamic, characterized by constant movement and change, the Postal Service is not able to accurately predict the level of volume that may migrate from PM to RG-PSG. Indeed, a benefit of the planned RG-PSG service standard changes is the added ability for the Postal Service to influence the relative use of PM and RG-PSG by adjusting the price gap between the products. (For additional detail, please see Witness Jarboe's nonpublic responses to POIR No. 4, Question 6.d.i in USPS-LR-N2022-1/NP12 and POIR No. 5, Question 5 in USPS-LR-N2022-1/NP15.)

Additionally, the level of diversion will be affected by the level of customer price sensitivity and specific service needs, given that PM remains a faster option in some lanes, with a 1- to 3-day service standard, and therefore offers service enhancement that would continue to differentiate PM from an enhanced RG-PSG. (USPS-T-1 at 11.) Moreover, PM offers flat rate pricing, included insurance, as well as various Postal Service-offered packaging container options, which differentiate it from RG-PSG. (*Id.* at 10-11; see *also* Witness Jarboe's response to POIR No. 3, Question 8.b.)

Moreover, any diversion from PM volume must be viewed in the context of broader market trends; competitive products, after all, do not exist in isolation from private sector alternatives. Even in the absence of a low-price, medium-speed shipping service for packages of the sort that the planned changes would bring about, PM has

faced increased competitive pressure. The critical question, therefore, is not whether volume diversion will occur, but to where (and to whom) foreseeably diverted volumes will migrate. Diversion from one Postal Service product to another, resulting in short-term loss, is a more desirable outcome than diversion from Postal Service products to competitors, resulting in long-term loss. (Please see also Witness Jarboe's nonpublic response to POIR No. 5, Question 5 in USPS-LR-N2022-1/NP15.)

The planned service standards will position the enhanced RG-PSG product as a viable market alternative. Any short-term trade-downs from PM would thus reflect an overall package portfolio that better serves customer needs—one that would allow the Postal Service to better compete in today's marketplace and to grow contribution-positive volume. (*See id.*; *see also* USPS-T-1 at 5-10.) Therefore, it would be an overall package portfolio that better achieves the statutory policies. Thus, the Postal Service sees promise for the tradeoff between revenue lost from diversion and revenue gained from newly acquired RG-PSG volume; additionally, any revenue diversion from PM to RG-PSG would be further offset by: (1) cost savings resulting from reduced PM air transportation cost relative to lower RG-PSG ground transportation; (2) cost savings from efficiencies and densities that will be gained by processing and transporting FCPS, RG and PSG volumes together; and (3) enhanced efficiencies and unit cost reductions that will be enjoyed from newly acquired RG-PSG volume joining the ground transportation and processing stream. (For additional detail, please see Witness Jarboe's nonpublic responses to POIR No.3, Question 12 in USPS-LR-N2022-1/NP10 (Revised 4/21/22) and POIR No. 4, Question 6.d.i in USPS-LR-N2022-1/NP12.)

Indeed, even a small increase in RG-PSG market share will have a significant impact on

incremental revenue. (For additional detail, please see Witness Jarboe’s nonpublic response to POIR No. 4, Question 5 in USPS-LR-N2022-1/NP12.)

**C. The Planned Changes Accord and Conform with Statutory Policy.**

The Postal Service is broadly charged with providing adequate, reliable, efficient, prompt, and economical Nationwide postal service without undue or unreasonable discrimination.<sup>5</sup> In that regard, the Postal Service has significant discretion to determine how best to balance and fulfill these policies.<sup>6</sup> Moreover, because RG and PSG are competitive products—*i.e.*, products subject to private competition in the marketplace—the decision to change the applicable service standard for these products is “left to the reasonable business judgment of the Governors of the Postal Service.”<sup>7</sup>

**1. The Planned Service Standard Changes Promote Prompt, Reliable, and Efficient Service for Retail Ground and Parcel Select Ground.**

In accordance with the statutory duties embodied in title 39 of the United States Code, the planned service standard changes promote prompt, reliable, and efficient service for RG and PSG.<sup>8</sup> Most obviously, in this regard, improving the service standard for RG and PSG from the current 2-8-day standard to 2-5-days will promote

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<sup>5</sup> 39 U.S.C. §§ 101(a, f), 403 (a-c), 3661(a). For competitive products specifically, the Postal Service must also comply with the provisions of 39 U.S.C. § 3633.

<sup>6</sup> See, e.g., Docket No. N2011-1, Advisory Opinion on Retail Access Optimization Initiative, Dec. 23, 2011, at 8-9 (“The Postal Service is afforded a significant amount of authority under the statute, and has reasonable discretion to interpret the ambiguous terms delineating its powers and obligations.”); Docket No. N2010-1, Advisory Opinion on Elimination of Saturday Delivery, March 24, 2011 at 11-13 (“The Postal Service is afforded a significant amount of flexibility” in determining how to fulfill the requirements of 39 U.S.C. §§ 101 and 403, which “set[ ] out general postal policies.”)

<sup>7</sup> Docket No. N2021-2, Advisory Opinion on the Service Standard Changes Associated with First-Class Package Service, Sep. 29, 2021, at 51 (“Overall, decisions regarding the Postal Service’s Competitive products are left to the reasonable business judgment of the Governors of the Postal Service.”)

<sup>8</sup> 39 U.S.C. §§ 101(a), 403(a), 3661(a).

faster service for customers shipping larger/heavier packages. And, as market research shows, that improvement is not insignificant, but addresses an unmet demand for a faster, low-priced package shipping product in a very large and growing market. (See *supra* at 12-13, 15.)

The Postal Service projects that these faster, low-priced package shipping products will provide increased volume, which, over time, will permit more volume to move to ground transportation, thereby improving overall reliability and efficiency. Added volume in the FCPS lanes will also allow the Postal Service to improve transportation and processing utilization, which, over time, will allow further optimization of the ground transportation and processing networks. (See *supra* at 15.)

As noted, by eliminating the current interim processing stops, the Postal Service can reduce the overall processing burden on RG and PSG shipments. (See *supra* at 3.) This should in turn lend itself to deliveries that more reliably conform to service standards. Those standards, moreover, will be sped up significantly, with a significant number of OD pairs shifting to the 2-4-day range. Moreover, eliminating superfluous “touches” will reduce the overall processing burden on RG and PSG shipments and will also streamline the surface network on which those shipments travel—a fact reflected by enhanced service standards, which will make the processing and transportation of RG and PSG volume more reliable and efficient. (See *supra* at 3, 5-7; see also USPS-T-1 at 12.)



**2. The Planned Service Standard Changes Will Improve the Already Adequate Retail Ground and Parcel Select Ground Products.**

The Postal Service is also charged with providing “adequate” postal service.<sup>9</sup> As noted, market research has disclosed an unmet need for an economically priced, medium-speed ground shipping product. (See *supra* at 12-13, 15, 18-19.) Faster versions of RG and PSG can therefore reasonably be expected to grow in volume, as customers opt for the combination of low cost and medium speed that these products would provide. Implicit in this reasonable expectation is the inference that under the planned changes, RG and PSG will prove “adequate” to the shipping needs of a growing number of customers. The planned service standard changes are, therefore, likely to improve the already adequate RG and PSG products in accordance with the policies of title 39 of the United States Code.

**3. The Planned Service Standard Changes are not Unduly nor Unreasonably Discriminatory.**

Section 403(c) of title 39 prohibits undue or unreasonable discrimination among similarly situated mail users.<sup>10</sup> Whether the planned service standard changes at issue in this proceeding would be unduly or unreasonably discriminatory entails a three-part analysis: (1) whether one or more mailers are offered less favorable rates or terms and conditions than those offered to other mailers; (2) whether the two sets of mailers are

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<sup>9</sup> 39 U.S.C. §§ 403(a), 3661(a).

<sup>10</sup> See 39 U.S.C. § 403(c).

similarly situated; and, (3) whether there is a rational or legitimate basis for differing treatment.<sup>11</sup>

The planned service standards for RG and PSG, like the standards considered by the Commission in Docket Nos. N2021-1 and N2021-2, are based on distance (more precisely, on drive time) from origin to destination within the contiguous United States: mail travelling farther will have a longer standard than mail travelling shorter distances. This distinction based on drive time already exists in the current RG and PSG standards, which range from 2- to 8- days in the contiguous United States. Service standards based on distance that are applied on a nationwide basis do not facially distinguish between mailers who use the service. No mailers are offered more or less favorable terms than other mailers; rather, all mailers are offered and receive the same service depending on the drive time from origin to destination: all mailers sending a package that requires less than eight hours' drive time from origin to destination will be offered two-day service, irrespective of the origin, the destination, or any other criteria; all mailers sending a package to a destination that is more than eight-hours but less than thirty-two hours' drive time will be offered three-day service; and so on. Under both the existing and the planned service standards, all mailers within the contiguous United States will be offered and will receive the same level of service.

The same logic applies to the OD pairs that will be excepted from the planned changes. Addresses outside the contiguous United States receive—and would, after the planned changes come into effect, continue to receive—lengthier service standards

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<sup>11</sup> Docket No. N2021-1, Advisory Opinion on Service Changes Associated with First-Class Mail and Periodicals, July 20, 2021, at 170 (*citing* Docket No. C2009-1, Order on Complaint, Apr. 20, 2011, at 28 (Order No. 718)).

that reflect the mixed modes of transportation required to reach them; some degree of differentiation between distant OD pairs not situated within the same contiguous landmass and those that are is only to be expected. It further bears mentioning that the planned changes will not

degrade service to destinations outside the contiguous United States.

Furthermore, as explained in USPS-T-2, at 16, the Postal Service is exploring whether these changes might enable an acceleration in the service standards for pieces originating in or destinating to locations outside the contiguous United States, and which traverse the contiguous United States for some portion of their journey. (*See supra*, at 7.)

These observations also go to show that no similarly situated customers would be treated differently under these standards. In particular, HAZMAT, live animals, and packages shipped to or from offshore locations are too distinct to support a determination that their mailers are similarly situated to other purchasers of RG or PSG products. HAZMAT, live animals and offshore shipments present exceptional challenges, and these challenges in turn require a more complex operational methodology than that proposed for the normal run of RG and PSG mailings. Their peculiar nature, and the extra requirements and restraints imposed on their processing and conveyance, both justify their exclusion from the planned changes, and situate their shippers differently from those who will benefit from the 2- to 5-day service standard.

At the very least, there is at this point no basis to conclude that similarly situated customers would be treated differently under the planned changes: even imagining a hypothetical set of mailers who might be disparately impacted by the planned service

changes, addressing in the abstract whether such mailers might be ‘similarly situated’ within the scope of section 403(c) would be impractical, bordering on impossible, given the virtually infinite variables. Thus, whether mail users are “similarly situated” for section 403(c) purposes is a fact-driven, nuanced, and complex inquiry, one that is best determined on a case-by-case comparison of the relevant characteristics of the mailers.<sup>12</sup>

Finally, section 403(c) expressly prohibits only discrimination that is “undue or unreasonable.”<sup>13</sup> Thus, acts that are rationally related to achieving the Postal Service’s statutory mandate do not violate section 403(c), regardless of the first two elements of the analysis.<sup>14</sup> It is, moreover, well-settled that “[t]he Postal Service has wide latitude in providing different levels of service to different groups of users so long as those distinctions are reasonable.”<sup>15</sup> In that regard, the planned service standards changes accord with section 403(c) because, regardless of any conceived differing treatment among similarly situated mailers, the changes rationally advance legitimate postal

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<sup>12</sup> *Id.* at 175 (*citing* Docket No. C2009-1, Order on Complaint, Apr. 20, 2011, at 45, 49 (Order No. 718)); Docket No. N2021-2, Advisory Opinion on Service Standard Changes Associated with First-Class Package Service, Aug. 29, 2021, at 168 (*citing* Docket No. C2009-1, Order on Complaint, Apr. 20, 2011, at 45, 49 (Order 718)).

<sup>13</sup> 39 U.S.C. § 403(c).

<sup>14</sup> *See, e.g.*, Docket No. C2011-2, Order Dismissing Complaint, May 1, 2012, at 16 (Order No. 1327) (“The Commission concludes that the Postal Service’s actions do not constitute undue discrimination against SRO [Single-Room Occupancy] residents in violation of 39 U.S.C. § 403(c). The differences in mode of delivery to SROs and apartment houses are rationally related to the Postal Service’s statutory mandate to provide adequate and efficient postal services, including an efficient system of delivery of mail nationwide.”); *Egger v. U.S. Postal Serv.*, 436 F. Supp. 138, 143 (W.D. Va. 1977) (upholding different delivery service methods between unmarried students and married students living in physically similar buildings as “rationally related to the achievement of the Postal Service’s statutory goal of providing economical and efficient mail delivery.”)

<sup>15</sup> Docket No. N2021-1, Advisory Opinion on Service Changes Associated with First-Class Mail and Periodicals, July 20, 2021, at 176 (*citing* *Eggers v. U.S. Postal Serv.*, 436 F. Supp. at 142); Docket No. N2021-2, Advisory Opinion on Service Standard Changes Associated with First-Class Package Service, Aug. 29, 2021, at 168.

policies embodied in its statutory mandate. Specifically, the differentiation of service standards based on drive time from origin to destination is rationally related to the Postal Service's statutory duty to provide adequate, efficient, reliable, prompt, and economical postal services. (*See supra*, at 18-20.) And as explained, shipments to or from addresses outside the contiguous United States, as well as shipments of HAZMAT and live animals, will be excepted from the planned changes due to the challenges and operational realities involved in their processing and conveyance. (*See supra*, at 7-8, 22.)

The planned service standards are not unduly or unreasonably discriminatory and, therefore, accord and conform with the policies expressed in section 403(c) of title 39 of the United States Code.

#### **4. The Planned Service Standard Changes Conform with the Financial Performance Policies for Competitive Products**

Lastly, the planned changes will not impair compliance with the policies of section 3633 regarding the financial performance of competitive products.<sup>16</sup> As shown in the table included in Witness Owens's response to POIR 4, Question 6, RG and PSG revenue, jointly and severally, currently exceed their attributable costs, will exceed their attributable costs when the planned service standard changes are implemented, and are expected to continue to exceed their attributable costs as volume and revenue increase going forward, as required by section 3633(a)(2).<sup>17</sup> (For details, please see

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<sup>16</sup> 39 U.S.C. § 3633.

<sup>17</sup> To the extent that there will initially be some increase to FCPS costs (*see supra* at 13-14), FCPS revenues far exceed its costs. (*See* FY21 nonpublic Cost and Revenue Analysis, Docket No. ACR2021, FY-21-NP11, *rev'd* Jan. 13, 2022). In addition, while there may be some diversion from PM to the new RG-PSG products (*see supra* at 16-17), PM revenue is still expected to cover its attributable costs. Thus,

Witness Owens's response to POIR 4, Question 6 in USPS-LR-N2022-1/NP13.)

Likewise, with respect to the other provisions of section 3633, there is no increased risk of cross-subsidization of competitive products by market dominant products, or any diminishment in the expected ability of competitive products collectively to cover an appropriate share of the Postal Service's institutional costs.

#### **IV. PROPOSED FINDINGS AND CONCLUSIONS**

The Postal Service respectfully proposes that the Commission make the following findings and conclusions in accordance with the record evidence presented in these proceedings:

##### **A. Findings**

1. RG service is an economical ground shipping solution for retail customers for packages, thick envelopes, and tubes weighing 70 pounds or less and up to 130 inches in combined length and girth that are not required to be sent as First-Class Mail. (See *supra*, section III.)

2. PSG is similar to RG but is targeted to commercial shippers. (See *supra*, section III.)

3. For end-to-end package service within the contiguous United States, both RG and PSG currently have a service standard ranging from 2 to 8 days. (See *supra*, section III.A.)

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to the extent that PM attributable costs are volume-variable, as PM revenue declines, so to do its attributable costs. The relationship between revenue and costs will tend to keep the percent cost coverage relatively intact. (For details, please see FY21 nonpublic Cost and Revenue Analysis, Docket No. ACR2021, FY-21-NP11, *rev'd* Jan. 13, 2022)

4. By consolidating RG and PSG volume with FCPS volume, the Postal Service can offer faster service for packages that exceed the weight and size limitations of FCPS. This would upgrade the current service standard to correspond with the 2- to 5-day service standard for FCPS. (*See supra*, section III.A.)

5. The consolidation of RG and PSG volume with FCPS volume would result in accelerated service standards for a significant percentage of OD pairs. (*See supra*, section III.B.1.)

6. The market for ground shipping solutions has seen significant recent growth and is expected to continue to remain strong as new shippers enter the market and Business-to-Consumer shipments continue to increase. (*See supra*, section III.B.1.)

7. There is significant market potential for a medium-speed, low-priced ground transportation product for large packages. (*See supra*, section III.B.2)

8. The Postal Service's current package product portfolio is currently not well positioned to meet the large demand for a low-priced, medium-speed shipping solution for large packages. Notably, at 2- to 8-days, the service standard for RG-PSG is considerably slower than comparable products of private-sector competitors, and therefore RG-PSG is often not a viable alternative to products offered by others. (*See supra*, section III.B.2)

9. Upgraded RG and PSG service standards would not only accelerate service speed, but would also address the market need for a low-price, medium-speed, shipping service for packages in excess of one pound. (*See supra*, section III.B.2)

10. The changes will yield an estimated \$31.9 million reduction to RG and PSG mail processing cost based on FY2021 volumes. (*See supra*, section III.B.3.)

11. The changes will yield an estimated \$4.7 million reduction in transportation costs for RG and PSG. (*See supra*, section III.B.3.)

12. For FCPS, the changes will initially yield an estimated \$40.4 million increase in transportation costs resulting from the shift from commercial to freight air transportation. (*See supra*, section III.B.3.)

13. An enhanced RG-PSG product may result in some diversion of PM volumes. The level of diversion depends on the level of customer price sensitivity and specific service needs. (*See supra*, section III.B.4.)

14. PM has faced increased competitive pressure from private sector alternatives, and some degree of diversion seems inevitable. (*See supra*, section III.B.4.)

15. Short-term trade-downs from PM would reflect an overall package portfolio that better serves customer needs—one that would allow the Postal Service to compete in today's marketplace and to grow contribution-positive volume. (*See supra*, section III.B.4.)

16. Competitive package-delivery markets are dynamic ones characterized by constant movement and change. It is therefore not possible to make reliable static or fixed-period predictions regarding volume diversion. (*See supra*, section III.B.4.)

17. The Postal Service can influence the relative use of the PM and RG-PSG products by adjusting the price gap between them. (*See supra*, section III.B.4.)



18. Even a small increase in RG-PSG volume growth would suffice to cover the losses incurred by trade-downs from PM. (See *supra*, section III.B.4.)

## **B. Conclusions**

1. The policies codified in title 39 of the United States Code broadly charge the Postal Service with providing adequate, reliable, efficient, prompt, and economical, Nationwide postal service without undue or unreasonable discrimination. (See *supra*, section III.C.)

2. The Postal Service is afforded significant discretion to determine how best to fulfill its statutory duties. (See *supra*, section III.C.)

3. For competitive products such as RG and PSG—*i.e.*, products subject to private competition in the marketplace—the decision to change the applicable service standard is “left to the reasonable business judgment of the Governors of the Postal Service.” (See *supra*, section III.C.)

4. The planned service standard changes promote more reliable and efficient RG-PSG Service in accordance with 39 U.S.C. §§ 101(a), 403(a), and 3661(a). (See *supra*, section III.C.1.)

5. The planned service standard changes will improve the already adequate RG and PSG products in accordance with 39 U.S.C. §§ 403(a) and 3661(a). (See *supra*, section III.C.2.)

6. Service standards based on distance do not facially distinguish between mailers who use the service. (See *supra*, section C.III.3.)

7. Under the planned service standards, similarly situated mailers will be offered and will receive the same level of service. (See *supra*, section C.III.3.)

8. It is well-settled that “[t]he Postal Service has wide latitude in providing different levels of service to different groups of users so long as those distinctions are reasonable.” (*See supra*, section C.III.3.)

9. The differentiation of service standards based on drive time from origin to destination is rationally related to the Postal Service’s statutory mandate to provide adequate, efficient, reliable, and economical postal services. (*See supra*, section C.III.3.)

10. The planned service standard changes are not unduly nor unreasonably discriminatory. (*See supra*, section C.III.3.)

11. The planned service standard changes will not impair compliance with the policies of section 3633 regarding the financial performance of competitive products. RG and PSG revenue exceeds and will continue to exceed their attributable costs after the changes are implemented. Nor is there an increased risk of cross-subsidization of competitive products by market dominant products, nor any diminishment in the expected ability of competitive products collectively to cover an appropriate share of the Postal Service’s institutional costs. (*See supra*, section C.III.4.)

12. The planned service standard changes accord and conform with the policies of title 39 of the United States Code. (*See supra*, section C.III.)

## **V. CONCLUSION**

Pursuant to 39 U.S.C. section 3661 and 39 C.F.R. Part 3020, for the foregoing reasons and based on the record in this proceeding, the Commission should adopt the Postal Service's proposed findings and conclusions above and issue a favorable advisory opinion that the planned service standard changes presented by the United States Postal Service Request for an Advisory Opinion on Changes in the Nature of Postal Services, PRC Docket No. N2022-1 (March 21, 2022), are consistent with the policies of title 39 of the United States Code.

Respectfully submitted,

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